REMARKS

Applicant respectfully requests further examination and reconsideration in view of the comments set forth fully below. Claims 1-60 and 82-93 were pending. Within the Office Action, Claims 1-60 and 82-93 have been rejected. By the above amendments, Claim 1 has been amended and Claims 30-51 have been canceled. Accordingly, Claims 1-29, 52-60 and 82-93 are now pending.

Interview Summary

Applicant gratefully acknowledges the Examiner's time and attention during the telephone interview which took place on September 15 and 16, 2007. During the interview, Examiner Sharad Rampuria acknowledged that there are aspects of the invention that are distinguishable over the prior art. Specifically, the Examiner acknowledged that the rejection should be withdrawn with regards to the independent Claims 20, 52, 82, 92 and 93 and their respective dependent claims without further amendment to the claims in the telephone interview. Examiner Sharad Rampuria also acknowledged that the independent Claim 1 and its corresponding dependent claims would be distinguishable over the prior art if Claim 1 was amended to include a limitation of the telephone being a "wireless" telephone. Therefore, the amendments made above are made pursuant to the Examiner's comments and suggestions.

Rejections Under 35 U.S.C. § 103

Within the Office Action, Claims 1-5, 14-17, 20-42, 48-52, 55-60, 82-86, 92 and 93 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,757,698 to McBride et al. (hereinafter McBride) in view of U.S. Pat. App. No. 2005/0131990 to Jewell (hereinafter Jewell). In light of the Examiner's comments during the interview and amendments above, the Applicant respectfully disagrees with this rejection.

McBride teaches a data file mirroring application that monitors data files stored in a source directory for archiving to at least two other backup data storage locations. One of these backup data storage locations is on the Internet. The other may be a local data storage location, meaning a location that the host computer can access without using the Internet, such as a floppy drive, hard drive, high-density storage medium drive and so on. The user interface of the mirroring application flexibly allows the user to specify the source data to be backed up and the two or more backup data storage locations. [McBride, Abstract] However, as is recognized in the Office Action, McBride does not teach presenting a restore information interface on the user

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interface on the phone, the restore interface enabling a user to retrieve backup information to a data store on the phone. Moreover, McBride actually teaches away from a restore interface. McBride simply teaches, "to restore a file..., the user simply inserts the mirror disk into the removable media drive and selects the highest numerical revision of the file...The file can be simply copied back to the source folder or other folder and/or drive for immediate use." [McBride, col. 12, lines 10-15] McBride also teaches, "an advantage of the present invention over conventional backup utilities is that a separate restore operation is not necessary to restore the most recent version of a file." [McBride, col. 12, lines 1-3] **Therefore, McBride specifically teaches his invention overcomes the need for a separate restore operation since restore is possible by inserting a disk into a removable media drive.** If McBride overcomes the need for a separate restore application, then McBride cannot be properly combined with a reference that teaches a separate restore application. That is exactly what McBride is overcoming. Accordingly, it is improper to combine a reference where it teaches away from such a combination, and McBride clearly teaches away from any combination with a restore information interface. For further emphasis of this point, the MPEP teaches "[i]t is improper to combine references where the references teach away from their combination." (MPEP 2145 X.D.2)

Jewell is a regular application with a filing date of December 6, 2004, which is after the filing date of the above-titled application with a filing date of February 27, 2004. While Jewell is based on a provisional, U.S. Provisional Patent App. No. 60/526,610, with a filing date of December 4, 2003, under 35 U.S.C. 102(e) and 35 U.S.C. 119(e), only that which is disclosed in the provisional is entitled to the earlier filing date, and any newly added material is awarded the filing date of when that new material is filed. In the provisional of the Jewell application, there is no teaching of a telephone or a wireless telephone. It is only in the regular application, where Jewel includes a blanket paragraph in an attempt to cover many different computing devices including a "wireless communication device" which still is not necessarily a "telephone" as is claimed in the present application. Therefore, it is not until after the present application was filed, that Jewell disclosed a "wireless communication device." Thus, the Jewell provisional application only teaches a backup and restore system for workstations and servers and only that can be cited against the present application. One point of novelty of the present invention includes a backup user account set-up interface, a backup scheduling interface and a restore information interface on a phone. Therefore, since Jewell does not teach a restore interface for a

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telephone or a wireless communication device until after the filing date of the present invention, Jewell cannot be properly combined with McBride to teach the present invention. More specifically, one would have had no motivation to combine the backup system of McBride with the restore system for workstations and servers of Jewell to produce the claimed invention of a backup user account set-up interface, a backup scheduling interface and a restore information interface on a phone. **Moreover, because McBride teaches away from a restore interface and Jewell fails to teach a telephone or wireless communication device, even combining these references cannot teach the claimed invention.**

The present invention is directed towards a user interface for backing up and restoring data on a user's phone. As described above, McBride does not teach a restore interface and teaches a method of restoring which only utilizes a removable media such as a Zip disk. McBride teaches away from any sort of restore interface since the restore interface is unnecessary when using a removable media to restore the information. Therefore, it is improper to combine any references teaching a restore interface with McBride since McBride specifically indicates that the implementation with a removable media is better and needs no additional restore operations. Furthermore, the provisional application of Jewell does not teach a backup and restore system for a phone. Therefore, the restore of Jewell which is directed towards restoring data on workstations and servers is not properly combined with McBride.

The independent Claim 1 is directed to a method implemented by a processing device on a wireless telephone for backing up personal information stored in the wireless telephone. The method of Claim 1 comprises presenting a back-up system user account set-up interface on a user interface on the wireless phone, the set-up interface enabling establishment of a back-up service account, and the set-up interface including a display, one or more alphanumerical buttons and one or more soft buttons, different than the alphanumerical buttons, on the wireless phone, the function of the one or more soft buttons on the wireless phone changing, under control of a software application agent on the wireless phone, depending on the content displayed on the display screen, presenting a backup scheduling interface on the wireless phone, the backup scheduling interface accepting user input on a backup schedule, and the backup scheduling interface including a display, one or more alphanumerical buttons and one or more soft buttons, different than the alphanumerical buttons, on the wireless phone, the function of the one or more soft buttons on the wireless phone changing, under control of a software application agent on the wireless phone, depending on the content displayed on the display screen and presenting a restore

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information interface on the wireless phone, the restore interface enabling a user to retrieve backup information to a data store on the wireless phone, and the restore information interface including a display, one or more alphanumerical buttons and one or more soft buttons, different than the alphanumerical buttons, on the wireless phone, the function of the one or more soft buttons on the wireless phone changing, under control of a software application agent on the wireless phone, depending on the content displayed on the display screen. As described above, the combination of McBride and Jewell is improper because McBride teaches away from any combination of a restore interface, and there is no motivation to combine the provisional application of Jewell with McBride since Jewell is solely directed towards backup and restore for workstations and servers, not phones. For at least these reasons, the independent Claim 1 is allowable over the teachings of McBride, Jewell and their combination. Applicant respectfully requests a prompt allowance.

Claims 2-5 and 14-17 are dependent upon the independent claim 1. As discussed above, the independent claim 1 is allowable over the teachings of McBride, Jewell and their combination. Accordingly, claims 2-5 and 14-17 are also allowable as being dependent upon an allowable base claim.

The independent Claim 20 is directed to a method for storing personal information in a wireless telephone in a backup storage database. The method of Claim 20 comprises providing a phone agent including instructions operable by a processor in the phone to implement an automated phone data transmission method capable of regularly transmitting changes to a backup store via a communications link, and a restore method retrieving backup information to a data store on the phone, the agent including a backup service sign-up interface, a backup method scheduling interface and a restore interface, calling the restore method, all provided to a user interface on the phone, the user interface on the phone including a display and one or more buttons on the phone and responsive to user entry at the restore interface of said agent, providing changes from the backup store to the wireless telephone. As described above, the combination of McBride and Jewell is improper because McBride teaches away from any combination of a restore interface, and there is no motivation to combine the provisional application of Jewell with McBride since Jewell is solely directed towards backup and restore for workstations and servers, not phones. For at least these reasons, the independent Claim 20 is allowable over the teachings of McBride, Jewell and their combination.

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Claims 21-29 are dependent upon the independent claim 20. As discussed above, the independent claim 20 is allowable over the teachings of McBride, Jewell and their combination. Accordingly, claims 21-29 are also allowable as being dependent upon an allowable base claim.

The independent Claim 52 is directed to an application for storing personal information in a wireless telephone having a user interface and having a data store, to a backup system. The application of Claim 52 comprises an automated user account creation method initiated by the user via a user interface on a wireless telephone, the creation method accessing the backup system using a unique identifier for the user to create a user account on the backup system, an automated backup method transmitting changes to the backup system at user defined intervals and a restore method called by the user through a restore interface presented on the user interface of the phone, the restore method providing user data to a phone. As described above, the combination of McBride and Jewell is improper because McBride teaches away from any combination of a restore interface, and there is no motivation to combine the provisional application of Jewell with McBride since Jewell is solely directed towards backup and restore for workstations and servers, not phones. For at least these reasons, the independent Claim 52 is allowable over the teachings of McBride, Jewell and their combination.

Claims 55-60 are dependent upon the independent claim 52. As discussed above, the independent claim 52 is allowable over the teachings of McBride, Jewell and their combination. Accordingly, claims 55-60 are also allowable as being dependent upon an allowable base claim.

The independent Claim 82 is directed to a user interface implemented by a processing device on a telephone for backing up personal information stored in the telephone. The user interface of Claim 82 comprises an account-setup interface on the phone enabling establishment of a back-up service account, a scheduling interface on the phone allowing a user to manually set up a schedule for backing up data on the phone, the scheduling interface including a display on the phone, alphanumeric buttons on the phone, soft buttons on the phone, different than the alphanumeric buttons, the function of the soft buttons changing depending on what is displayed on the display, and a software application agent on the phone for controlling what is displayed on the display, controlling the function of the soft buttons, and setting up a back-up schedule when information is sent to a back-up store based on information manually entered into the scheduling interface and a restore information interface enabling a user to retrieve backup information to a data store on the phone. As described above, the combination of McBride and Jewell is improper because McBride teaches away from any combination of a restore interface, and there is no motivation to combine the provisional application of Jewell with McBride since Jewell is solely

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directed towards backup and restore for workstations and servers, not phones. For at least these reasons, the independent Claim 82 is allowable over the teachings of McBride, Jewell and their combination.

Claims 83-86 are dependent upon the independent claim 82. As discussed above, the independent claim 82 is allowable over the teachings of McBride, Jewell and their combination. Accordingly, claims 83-86 are also allowable as being dependent upon an allowable base claim.

The independent Claim 92 is directed to a user interface implemented by a processing device on a telephone for backing up personal information stored in the telephone. The user interface of Claim 92 comprises an account-setup interface on the phone enabling establishment of a back-up service account, a scheduling interface on the phone allowing a user to manually set up a schedule for backing up data on the phone, a restore information interface enabling a user to retrieve backup information to a data store on the phone, one or more of the account-setup interface, the scheduling interface and the restore information interface including a display on the phone, alphanumeric buttons on the phone, soft buttons on the phone, different than the alphanumeric buttons, the function of the soft buttons changing depending on what is displayed on the display, and a software application agent on the phone for controlling what is displayed on the display and variably setting the function of the soft buttons. As described above, the combination of McBride and Jewell is improper because McBride teaches away from any combination of a restore interface, and there is no motivation to combine the provisional application of Jewell with McBride since Jewell is solely directed towards backup and restore for workstations and servers, not phones. For at least these reasons, the independent Claim 92 is allowable over the teachings of McBride, Jewell and their combination.

The independent Claim 93 is directed to a user interface implemented by a processing device on a telephone for backing up personal information stored in the telephone. The user interface of Claim 93 comprises an account-setup interface on the phone enabling establishment of a back-up service account, a scheduling interface on the phone allowing a user to manually set up a schedule for backing up data on the phone, and a restore information interface enabling a user to retrieve backup information to a data store on the phone, one or more of the account-setup interface, the scheduling interface and the restore information interface including a display on the phone, the display displaying one or more of words and icons, a user interacing with the user interface by selecting one or more of the words and icons on the display, and a software application agent on the phone for controlling what is displayed on the display and controlling backup of personal information based on the selection of one or more words and icons on the

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display. As described above, the combination of McBride and Jewell is improper because McBride teaches away from any combination of a restore interface, and there is no motivation to combine the provisional application of Jewell with McBride since Jewell is solely directed towards backup and restore for workstations and servers, not phones. For at least these reasons, the independent Claim 93 is allowable over the teachings of McBride, Jewell and their combination.

Within the Office Action, Claims 6-13, 43-45, 53, 54 and 87-89 have been rejected under 35 U.S.C. §103(a) as being unpatentable over McBride and Jewell in view of U.S. Pat. No. 6,396,482 to Griffin et al. (hereinafter Griffin).

Claims 6-13 are dependent upon the independent claim 1. As discussed above, the independent claim 1 is allowable over the teachings of McBride, Jewell and their combination. Accordingly, claims 6-13 are also allowable as being dependent upon an allowable base claim.

To further prosecution, Claims 43-45 have been canceled.

Claims 53 and 54 are dependent upon the independent claim 52. As discussed above, the independent claim 52 is allowable over the teachings of McBride, Jewell and their combination. Accordingly, claims 53 and 54 are also allowable as being dependent upon an allowable base claim.

Claims 87-89 are dependent upon the independent claim 82. As discussed above, the independent claim 82 is allowable over the teachings of McBride, Jewell and their combination. Accordingly, claims 87-89 are also allowable as being dependent upon an allowable base claim.

Within the Office Action, Claims 18, 19, 90 and 91 have been rejected under 35 U.S.C. §103(a) as being unpatentable over McBride and Jewell in view of U.S. Pat. App. No. 2004/0192260 to Sugimoto et al.(hereinafter Sugimoto).

Claims 18 and 19 are dependent upon the independent claim 1. As discussed above, the independent claim 1 is allowable over the teachings of McBride, Jewell and their combination. Accordingly, claims 18 and 19 are also allowable as being dependent upon an allowable base claim.

Claims 90 and 91 are dependent upon the independent claim 82. As discussed above, the independent claim 82 is allowable over the teachings of McBride, Jewell and their combination. Accordingly, claims 90 and 91 are also allowable as being dependent upon an allowable base claim.

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Within the Office Action, Claims 46 and 47 have been rejected under 35 U.S.C. §103(a) as being unpatentable over McBride and Jewell in view of U.S. Pat. App. No. 2004/0192282 to Vasudevan (hereinafter Vasudevan).
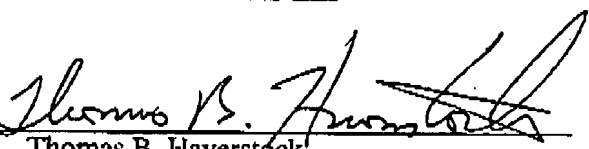
To further prosecution, Claims 46 and 47 have been cancelled.

For these reasons, Applicant respectfully submits that all of the claims are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
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